

**Tenure:** 10

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## Officer History

**Officer Name:** Mccarthy, Michael

**Tax ID:** 950855

**Sex:** ■

**Shield:** 19917

**Race:** ■■■■

**Rank:** POM

**Command:** 641

**DOB:** ■■■■■■

**Appt Date:** 07/06/2011

**Age:** ■

**Tenure:** 10

CCRB #	Report Date	Incident Date	Allegation	Disposition	NYPD Disposition	NYPD Penalty	Command
201801323	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■	Unsubstantiated			■■
	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■	Unsubstantiated			■■
	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■			■■
	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■			■■
201900822	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■	Unsubstantiated			■■
201907191	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■	Unsubstantiated			■■
	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■			■■
	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■			■■
	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■	■■■■■■■■■■			■■
202100798	02/04/2021	01/26/2021	Force - Physical force				101
Total Charges = 32				Total Cases = 16			

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Mleczkowski	Team: Team # 3	CCRB Case #: 201405879	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wed, 06/11/2014 7:56 PM	Location of Incident: 14-60 Beach Channel Drive	Precinct: 101	18 Mo. SOL 12/11/2015	EO SOL 12/11/2015	
Date/Time CV Reported Fri, 06/13/2014 4:25 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/13/2014 4:25 PM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	Comp/Victim	[REDACTED]

Witness(es)	Home Address
1. Unknown [REDACTED]	Unknown
2. [REDACTED] Unknown	Unknown

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Mccarthy	19917	950855	101 PCT
2. POM [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
3. LT [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
4. An officer			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2. SGT [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
3. SGT [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
A . An officer	Force: An officer used physical force against [REDACTED]	A . Officer(s) Unidentified
B . POM Michael Mccarthy	Other: PO Michael McCarthy failed to prepare a memo book entry as required.	B . Other Misconduct
C . POM [REDACTED]	Other: PO [REDACTED] failed to prepare a memo book entry as required.	C . Other Misconduct
D . LT [REDACTED]	Other: Lt. [REDACTED] failed to prepare a memo book entry as required.	D . Other Misconduct

### Case Summary

On June 11, 2014 at 7:56 p.m., [REDACTED] was attending a memorial service for her cousin, “Stack Bundles,” in front of 14-60 Beach Channel Drive in Queens. Suddenly, many men began fighting so Ms. [REDACTED] called 911 and approximately thirty uniformed police officers arrived, in multiple marked vehicles of the 101<sup>st</sup> Precinct. Ms. [REDACTED] did not obtain the names or shield numbers of any of these officers.

Suddenly, Ms. [REDACTED] felt an individual who she believed to be a uniformed officer and who remains unidentified, grab her from behind by wrapping his or her arms around her waist, lift her up and throw her on the ground, making her land on her lower back and buttocks (**Allegation A**). Ms. [REDACTED] was not issued any directives by officers prior to this alleged force and she left the incident location soon thereafter. Ms. [REDACTED] was not arrested or issued a summons as a result of the incident.

### Mediation, Criminal and Civil Histories

This case was not eligible for mediation due to a back contusion that Ms. [REDACTED] sustained, which is documented in her Saint John’s Hospital medical record, as a result of the incident.

A search of the NYPD Booking, Arraignment and Disposition database revealed negative results for a New York State Identification Number for Ms. [REDACTED]. Therefore, a NYS Office of Court Administration database search could not be conducted (encl. J26-J27).

As of April 3, 2015, which is past the 90-day filing deadline, Ms. [REDACTED] had not filed a notice of claim in regards to this incident (encl. L32).

### Civilian and Officer CCRB Histories

- This is Ms. [REDACTED] first CCRB complaint (encl. B4).
- PO Michael McCarthy has been a member of the service for three years and there are no substantiated allegations against him. His CCRB allegation history does not indicate a pattern applicable to this case (encl. B1).
- PO [REDACTED] has been a member of the service for three years and this is the first complaint in which he is involved (encl. B2).
- Lt. [REDACTED] has been a member of the service for 16 years and there are no substantiated allegations against him. His CCRB allegation history does not indicate a pattern applicable to this case (encl. B3).

### Potential Issues

While Ms. [REDACTED] did not see the individual who used force against her, she was informed by her friend “[REDACTED]” (whose full name and contact information she refused to provide) that an officer performed that action. Ms. [REDACTED] was later provided with video footage, which did not comprise the entirety of the incident, by her acquaintance Ms. [REDACTED] (whose full name and contact information she refused to provide).

The 47-second video footage filmed by Ms. [REDACTED] is of poor quality. It is grainy and pixelated. Initially, it shows a black male being escorted to a marked police van by three officers and we can hear people complaining about the police in the background. The video footage ends with a white, heavy set, light-haired male officer approaching members of the crowd and asking them to disperse. No specific statements are made by the crowd regarding a female being slammed on the

ground. The footage does not show an officer grabbing a civilian from the back and her on the ground.

### **NYPD Documents**

#### **Event Summary D14061121597**

The aforementioned documentation states that on June 11, 2014 at 7:56 p.m., a 911 call was placed by an anonymous female caller, which stated that a large crowd, who was engaged in fighting, was located at Beach Channel Drive and Hassock Street in Queens. The documentation notes that Patrol Sector C of the 101<sup>st</sup> Precinct arrived at the location at 7:57 p.m. in regards (encl. J1).

#### **June 11, 2014, Tour 3, 101<sup>st</sup> Precinct Impact Response Team Roll Call**

The aforementioned documentation lists that Sgt. [REDACTED] [REDACTED] was assigned as the Team 3 supervisor and PO [REDACTED] [REDACTED] was assigned to Team 1 (encl. J8).

#### **June 11, 2014, Tour 3, 101<sup>st</sup> Precinct Roll Call**

The aforementioned documentation lists that Lt. [REDACTED] was assigned as the Patrol Supervisor and Sgt. [REDACTED] [REDACTED] was assigned as the Conditions Unit Supervisor. It also lists that PO McCarthy and PO [REDACTED] were assigned to Patrol Sector C (encl. J10-J20).

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

Ms. [REDACTED] recognized an officer who was present at the incident location in the video footage at the 24 second mark of the recording, who Sgt. [REDACTED] identified as himself during his CCRB interview. Ms. [REDACTED] informed the undersigned investigator that she believed Sgt. [REDACTED] to be the subject officer because she observed that he stood directly behind her after the alleged force was used. The video footage includes Sgt. [REDACTED] approaching members of the crowd and asking them to disperse. The footage does not show an officer grabbing a civilian from the back and throwing her on the ground. No statements were made by the crowd regarding a female being slammed on the ground.

Although Sgt. [REDACTED] stated that he was the officer captured at the 24 second mark of the recording, his mere presence in Ms. [REDACTED] vicinity does not suggest that he used force against her. As indicated by the officers interviewed and corroborated by the video footage, many officers responded to a large, disorderly crowd, in which several male individuals were arrested for fighting. Therefore, since Ms. [REDACTED] did not see the individual who used force against her, it is possible that her assailant could be a civilian. Additionally, Ms. [REDACTED] did not provide the CCRB with the full names or any contact information for "[REDACTED]" or "Ms. [REDACTED]" rendering the investigation unable to obtain eyewitness testimony. Without Ms. [REDACTED] testimony, the investigation was unable to determine if Ms. [REDACTED] began her video recording before or after the alleged force. Ms. [REDACTED] missed two scheduled photo arrays at the CCRB and she has not called the undersigned investigator in order to reschedule her appointment. Without Ms. [REDACTED] cooperation, the investigation was unable to determine if Sgt. [REDACTED] was the sole officer near her at the time of the incident, or if there were additional officers or civilians within her vicinity, who may have used the alleged force against her. As such, the investigation was

unable to identify the subject officer in this case and **Allegation A** is being pleaded against an officer.

**Allegation A- Force: An officer used physical force against [REDACTED]**

Ms. [REDACTED] alleged that an individual, who she did not see, grabbed her from behind by wrapping his or her arms around her waist, lifted her up and threw her on the ground.

PO [REDACTED] recognized Ms. [REDACTED] from the photograph that the undersigned investigator took of her during her CCRB interview, which was presented to him during his CCRB interview. PO [REDACTED] noted that he did not witness Ms. [REDACTED] at the incident location; he solely observed her at the stationhouse following the incident. PO McCarthy, PO [REDACTED] and Lt. [REDACTED] did not recognize Ms. [REDACTED] from her photo, which was presented to them during their interviews. PO McCarthy denied using and could not recall if he observed any officers use the alleged force against any women. PO [REDACTED] and Lt. [REDACTED] denied using and witnessing any officers use the alleged force against any women. Sgt. [REDACTED] recognized Ms. [REDACTED] from her photograph and stated that he observed her at the 101<sup>st</sup> Precinct stationhouse following the incident, filing a complaint in regards to the incident. Sgt. [REDACTED] did not know any further details about her complaint, including if it was against officers. Sgt. [REDACTED] could not recall if he saw Ms. [REDACTED] at the incident location. Sgt. [REDACTED] did not recognize Ms. [REDACTED] from her picture; he denied using or witnessing an officer use the alleged force against any women.

While Ms. [REDACTED] alleged that she believed Sgt. [REDACTED] to be the subject officer because he stood behind her after the force occurred, the circumstances surrounding her statement cast doubt as to whether her assailant was an officer. Firstly, Ms. [REDACTED] stated that she did not see Sgt. [REDACTED] using force against her. Furthermore, when she observed Sgt. [REDACTED] he allegedly did not make any statements towards her, which would not be consistent with an officer performing crowd control and using force against a civilian. The investigation was unable to obtain statements from two eyewitnesses of this incident, “[REDACTED]” and “Ms. [REDACTED]” since Ms. [REDACTED] refused to provide their full names or any contact information for them. The video footage that Ms. [REDACTED] provided does not show the allegation taking place, nor does it contain the statements of anyone reacting to a woman being slammed on the ground.

Ms. [REDACTED] missed two scheduled photo arrays, without any prior notification to the undersigned investigator. Without Ms. [REDACTED] cooperation, the investigation was unable to determine if Sgt. [REDACTED] was the sole officer near her at the time of the incident, or if there were additional officers or civilians within her vicinity, who may have used the alleged force against her. Without further information, the investigation was unable to determine if an officer used force against Ms. [REDACTED] or identify the officer who used force against Ms. [REDACTED]. As such, it is recommended that **Allegation A** be closed as **officer unidentified**.

**Allegation B-Other: PO Michael McCarthy failed to prepare a memo book entry as required.**

**Allegation C-Other: PO [REDACTED] failed to prepare a memo book entry as required.**

**Allegation D-Other: Lt. [REDACTED] failed to prepare a memo book entry as required.**

It is undisputed that PO McCarthy, PO [REDACTED] and Lt. [REDACTED] responded to this incident and did not prepare memo book entries in regards to their presence at the scene.

NYPD Patrol Guide Section 212-08 (encl. A1-A3) requires officers below the rank of captain to prepare memo book entries concerning violations of the law, including tasks performed and actions taken.

Because PO McCarthy, PO [REDACTED] and Lt. [REDACTED] failed to document this incident in their memo books as required, it is recommended that they be cited for **other misconduct**.

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Team: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Liliana Manuel	Team: Squad #3	CCRB Case #: 201501145	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thu, 02/12/2015 11:41 PM	Location of Incident: Beach 44th Street and Beach Channel Drive; 101st Precinct stationhouse	Precinct: 101	18 Mo. SOL 08/12/2016	EO SOL 8/12/2016	
Date/Time CV Reported Thu, 02/12/2015 11:41 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/18/2015 1:09 PM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	Comp/Victim	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Mccarthy	19917	950855	101 PCT
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT [REDACTED]	00000	[REDACTED]	[REDACTED]
2. LT [REDACTED]	00000	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
A . POM Michael Mccarthy	Discourtesy: On Beach 44th Street in Queens, PO Michael McCarthy gestured rudely toward [REDACTED]	A . Unsubstantiated
B . POM Michael Mccarthy	Discourtesy: At the 101st Precinct Stationhouse, PO Michael McCarthy spoke rudely to [REDACTED]	B . Substantiated
C . POM Michael Mccarthy	Abuse of Authority: At the 101st Precinct Stationhouse, PO Michael McCarthy threatened [REDACTED] with the use of force.	C . Substantiated
D . An officer	Force: At the 101st Precinct Stationhouse, an officer used physical force against [REDACTED]	D . Officer(s) Unidentified
E . An officer	Discourtesy: At the 101st Precinct Stationhouse, an officer spoke rudely to [REDACTED]	E . Officer(s) Unidentified
F . An officer	Discourtesy: At the 101st Precinct Stationhouse, an officer acted rudely toward [REDACTED]	F . Officer(s) Unidentified



### Case Summary

On February 12, 2015, ■■■■■ filed the following complaint with IAB. The complaint generated original log number 15-3856, and was received at the CCRB on February 18, 2015. On February 12, 2015, at approximately 11:00 p.m., Mr. ■■■■■ parked at the corner of Beach 44<sup>th</sup> Street and Beach Channel Drive in Queens to go to a corner store. Before exiting his vehicle, he was stopped by two officers identified via the investigation as PO Michael McCarthy and Lt ■■■■■ of the 101<sup>st</sup> Precinct for excessive tints. After learning that Mr. ■■■■■ was driving with a restricted license, PO McCarthy issued Mr. ■■■■■ a summons for a restricted license violation. As the officers returned to their RMP, PO McCarthy blew Mr. ■■■■■ a kiss (**Allegation A**).

Mr. ■■■■■ felt mistreated and did not understand why he was issued a summons for a restricted license violation when he had been told he was pulled over for illegal tints. He proceeded to the 101<sup>st</sup> Precinct Stationhouse to address these concerns, and arrived there at approximately 11:30 p.m. While Mr. ■■■■■ was speaking with an officer at the stationhouse, PO McCarthy entered the stationhouse and approached Mr. ■■■■■ PO McCarthy told Mr. ■■■■■ “Pussy, why ■■■■■ you just take it up in court. I should punch you right in your face,” (**Allegations B and C**). PO1 then grabbed Mr. ■■■■■ by his waist and swung him around through one of the two entrance doors (**Allegation D**). Mr. ■■■■■ dropped his summons and license and asked PO1 if he could pick the documents up. PO1 responded, “No. Get the fuck out of here,” (**Allegation E**). He then pushed Mr. ■■■■■ through the second set of doors and kicked his license and summons through the doorway (**Allegation F**). Mr. ■■■■■ summons blew away in the wind. A referral was made to the Chief of Department in regards to the summons dispute.

### Mediation, Civil and Criminal Histories

- Mr. ■■■■■ rejected mediation because he did not believe it would resolve the issue, and felt that the officers should be held accountable for their actions.
- As of March 24, 2015, Mr. ■■■■■ had not filed a Notice of Claim with the City of New York with regard to this incident (Board review 04).

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by Mr. ■■■■■ (Board review 01).
- PO McCarthy has been a member of the NYPD for three years, has had five previous CCRB allegations involving three cases with no substantiated allegations. One of the three cases involving one allegation of other misconduct (failure to prepare memo book entry) is ongoing. Two of the previous allegations were allegations of force (Board review 02).

### Findings and Recommendations

#### Allegation Not Pleaded

- Vehicle stop: PO McCarthy and Lt ■■■■■ stated that they pulled Mr. ■■■■■ over for his excessive and illegal tints. Both officers made note of this in their memo books (Board review 09; 10). PO McCarthy informed Mr. ■■■■■ of the reason for the stop, and Mr. ■■■■■ did not contest the validity of the stop. An allegation of a vehicle stop has not been pleaded as it would constitute a summons dispute.
- Discourtesy on Beach 44<sup>th</sup> Street- During Mr. ■■■■■ phone statement on February 23, 2015, he alleged that after receiving his summons, PO McCarthy told him, “Enjoy your fucking night.” Mr. ■■■■■ did not make this claim in his sworn statement. Thus, an allegation of discourtesy on Beach 44<sup>th</sup> Street in Queens has not been pleaded.

### **Explanation of Subject Officer Identification**

The altercation between Mr. [REDACTED] and officers at the 101<sup>st</sup> Precinct Stationhouse took place at approximately 11:30 p.m., as the tour 3 officers were ending their tour and the tour 1 officers were beginning theirs. Mr. [REDACTED] claimed that at least twenty officers were in the stationhouse during the incident. Moreover, the roll call revealed that there were over 70 officers between the two tours who could have been at the stationhouse during the incident (Board review 07; 08).

PO McCarthy, Lt [REDACTED] and the desk officer, Lt [REDACTED] [REDACTED] were interviewed at the CCRB and were not able to identify PO1 or any witness officers. Mr. [REDACTED] described PO1 as a white officer in his late 30s, of average height and heavy stature; a description numerous officers fit. Absent further identifying characteristics of PO1, there was no way of narrowing down the potential pool of officers and the investigation was therefore unable to identify PO1. Thus, **Allegations D, E, and F**, have been pleaded against “an officer” from the 101<sup>st</sup> Precinct.

### **Recommendations**

#### **Allegation A – On Beach 44<sup>th</sup> Street in Queens, PO Michael McCarthy gestured rudely toward [REDACTED]**

Mr. [REDACTED] provided a statement to IAB on February 12, 2015, a phone statement to the CCRB on February 23, 2015, and a sworn statement at the CCRB on March 3, 2015. His statements were generally consistent. Mr. [REDACTED] alleged that while he was walking toward the corner store on Beach 44<sup>th</sup> Street, PO McCarthy, who was seated in or walking toward the driver’s seat of the RMP, blew a kiss at Mr. [REDACTED]. The RMP was parked behind Mr. [REDACTED] vehicle on Beach 44<sup>th</sup> Street, a one way street, with both vehicles’ drivers’ windows facing the corner store.

PO McCarthy was interviewed at the CCRB on March 17, 2015, and denied blowing Mr. [REDACTED] a kiss. Lt [REDACTED] was interviewed at the CCRB on March 19, 2015, and did not see PO McCarthy blow Mr. [REDACTED] a kiss.

Due to the officers’ positioning while walking back to the RMP or sitting in the RMP, it is possible that Lt [REDACTED] would not have seen PO McCarthy blow Mr. [REDACTED] a kiss. However, absent witness testimony or additional documentary evidence to support or refute Mr. [REDACTED] claim, the investigation could not determine whether PO McCarthy blew a kiss at Mr. [REDACTED]. Therefore, it is recommended that **Allegation A** be closed as **Unsubstantiated**.

#### **Allegation B – At the 101<sup>st</sup> Precinct Stationhouse, PO Michael McCarthy spoke rudely to [REDACTED]**

#### **Allegation C – At the 101<sup>st</sup> Precinct Stationhouse, PO Michael McCarthy threatened [REDACTED] with the use of force.**

Mr. [REDACTED] stated that at approximately 11:30 p.m., he was at the 101<sup>st</sup> Precinct Stationhouse speaking with an officer who offered to help him. As the officer began to explain to Mr. [REDACTED] how he could dispute the summons and file a complaint, PO McCarthy entered the stationhouse and interjected, “Pussy, why [REDACTED] you just take it up in court. I should punch you right in your face.”

PO McCarthy claimed that upon entering the stationhouse, Mr. [REDACTED] who had been speaking with an unknown officer, stopped PO McCarthy and said something to him regarding the summons. PO McCarthy could not recall which officer Mr. [REDACTED] had been speaking with, even after reviewing the roll call and hearing Mr. [REDACTED] description of the officer. PO McCarthy

told Mr. [REDACTED] “Take it up in court.” PO McCarthy claimed that Mr. [REDACTED] became combative and disorderly, yet PO McCarthy was unable to provide a single example of Mr. [REDACTED] combative or disorderly behavior. He could not recall if Mr. [REDACTED] voice was raised or if he used any profanity, and could not recall any specific statements Mr. [REDACTED] made. PO McCarthy responded, “I’ll see you in court.” He could not recall any other statements he made to Mr. [REDACTED] PO McCarthy could not recall stating, “Pussy, why [REDACTED] you just take it up in court.” He denied stating, “I should punch you right in your face,” but could not recall if he threatened to use force against Mr. [REDACTED]

During the interview, PO McCarthy made numerous comments indicative of an aversion to Mr. [REDACTED] When asked if Mr. [REDACTED] left the stationhouse before PO McCarthy, PO McCarthy responded, “I honestly could not have cared less,” and later added that he, “disregarded anything he [Mr. [REDACTED] said and his presence in general.” When asked if PO McCarthy encountered Mr. [REDACTED] after going upstairs to the locker room, PO McCarthy responded, “He better not be upstairs.” PO McCarthy repeatedly described Mr. [REDACTED] as being “combative” and “disorderly,” and was at no point able to provide examples of this behavior.

Lt [REDACTED] claimed that upon returning to the stationhouse, he immediately went to the locker room and did not see where PO McCarthy had gone. At no point after the car stop did Lt [REDACTED] see Mr. [REDACTED] Later that night, however, an unknown officer informed Lt [REDACTED] that Mr. [REDACTED] had come to the stationhouse to discuss the summons with PO McCarthy. Lt [REDACTED] claimed that the officer provided no further information, and that when he asked PO McCarthy about the their encounter later that night or on a later date, PO McCarthy simply stated that he told Mr. [REDACTED] to address the summons in court.

Lt [REDACTED] [REDACTED] was interviewed at the CCRB on April 30, 2015. Lt [REDACTED] was working as the desk officer during the incident at the 101<sup>st</sup> Precinct Stationhouse. She stated, however, that she did not witness or hear of the incident, and would only have been able to see the incident through a monitor. She confirmed that a tour change was occurring during the time of the incident, and that at least fifteen officers were in the stationhouse.

As addressed above, there were over seventy possible officers who could have been present at the stationhouse during Mr. [REDACTED] encounter with officers (Board review 07; 08). Absent additional details, the investigation was therefore unable to identify possible witness officers other than Lt [REDACTED] and Lt [REDACTED] Despite the absence of witness testimony, there is no evidence to discredit Mr. [REDACTED] His phone and sworn statements were consistent with his statement to IAB, which was provided only minutes after the incident. Although PO McCarthy denied making the alleged statement of threat of force, he could not recall if he threatened to use force against Mr. [REDACTED] or if he made the alleged discourteous statement. Furthermore, PO McCarthy displayed a seemingly unwarranted dislike for Mr. [REDACTED] The investigation determined that Mr. [REDACTED] allegation that PO McCarthy stated, “Pussy, why [REDACTED] you just take it up in court. I should punch you right in your face,” is credible. It is therefore recommended, based on a preponderance of the evidence, that **Allegations B and C** be closed as **Substantiated**.

**Allegation D – At the 101<sup>st</sup> Precinct Stationhouse, an officer used physical force against [REDACTED]**

**Allegation E – At the 101<sup>st</sup> Precinct Stationhouse, an officer spoke rudely to [REDACTED]**

**Allegation F – At the 101<sup>st</sup> Precinct Stationhouse, an officer acted rudely toward [REDACTED]**

Mr. [REDACTED] alleged that immediately after PO McCarthy spoke rudely to him and threatened him with the use of force, PO1 approached Mr. [REDACTED] from behind, grabbed his waist,

and swung him around, guiding him through a set of doors. No officer had issued Mr. [REDACTED] any commands prior to this, and Mr. [REDACTED] had not responded to PO McCarthy's comment. Mr. [REDACTED] dropped his summons and license, and asked PO1 if he could pick them up. PO1 responded, "No. Get the fuck out of here," and pushed Mr. [REDACTED] through the second set of doors out of the stationhouse, causing Mr. [REDACTED] to stumble down a few steps. He did not sustain any injuries. PO1 then kicked Mr. [REDACTED] summons and license out of the door. The summons blew away in the wind, but Mr. [REDACTED] managed to retrieve his license, as it was heavier than the summons and was not taken by the wind.

Mr. [REDACTED] provided a statement to Det [REDACTED] of IAB on February 12, 2015, at approximately 11:41 p.m.; just minutes after the incident (Board review 03). Mr. [REDACTED] was outside of the 101<sup>st</sup> Precinct Stationhouse while providing the statement. Det [REDACTED] asked Mr. [REDACTED] to read the information on the summons to him. Mr. [REDACTED] was unable to do so because he no longer had the summons. Mr. [REDACTED] phone and sworn statement were consistent with his statement to Det [REDACTED].

PO McCarthy claimed that after his brief interaction with Mr. [REDACTED] at the stationhouse, he immediately went upstairs to the locker room and did not see Mr. [REDACTED] when he returned downstairs. PO McCarthy denied witnessing any of the above-listed allegations. As mentioned earlier, Lt [REDACTED] stated that he did not see Mr. [REDACTED] at any point after the car stop. He did not witness any of the allegations against PO1. Lt [REDACTED] denied hearing or witnessing any verbal or physical altercation between Mr. [REDACTED] and officers, and added that she would not be able to see the entrance of the station house from where she was seated.

As discussed above, the investigation was unable to identify the officer who allegedly pushed Mr. [REDACTED] out of the stationhouse, told him, "Get the fuck out of here," and kicked his summons and license. Therefore, it is recommended that **Allegations D, E, and F** be closed as **Officer(s) Unidentified**.

---

Pod: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jaimie Vernon	Team: Squad #4	CCRB Case #: 201502747	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tue, 04/07/2015 10:00 PM	Location of Incident: Inside [REDACTED]	Precinct: 101	18 Mo. SOL 10/07/2016	EO SOL 10/7/2016	
Date/Time CV Reported Sat, 04/11/2015 9:22 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 04/11/2015 9:22 AM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	Comp/Victim	[REDACTED]
2. [REDACTED]	Victim	[REDACTED]

Witness(es)	Home Address
1. [REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2. POM Michael McCarthy	19917	950855	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2. POM [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
3. POM [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
A . DT3 [REDACTED]	Abuse of Authority: Det. [REDACTED] threatened to damage [REDACTED] property.	A . Unsubstantiated
B . DT3 [REDACTED]	Force: Det. [REDACTED] pushed [REDACTED] against a wall.	B . Unsubstantiated
C . DT3 [REDACTED]	Abuse of Authority: Det. [REDACTED] refused to provide his name and shield number to [REDACTED]	C . Unsubstantiated
D . DT3 [REDACTED]	Discourtesy: Det. [REDACTED] spoke rudely to [REDACTED]	D . Unsubstantiated
E . POM Michael McCarthy	Other: PO Michael McCarthy failed to prepare a memo book entry as required.	E . Other Misconduct

### Case Summary

On April 11, 2015, the CCRB received the complaint of Ms. [REDACTED] made via the Call Processing System. On April 15, 2015, Ms. [REDACTED] provided a phone statement (Board Review 01). On April 27, Ms. [REDACTED] made an in-person statement (Board Review 02). On April 30, 2015, Mr. [REDACTED] and Ms. [REDACTED] were interviewed at the Anna M. Kross and at the Rose M. Singer facilities at Rikers Island, respectively (Board Review 03 and Board Review 04). In the interest of brevity and clarity, the civilian statements, along with the investigative findings, are merged into the following narrative:

On the night of April 7, 2015, a field team consisting of plainclothes officers from the Queens Narcotics command was conducting a “buy-and-bust” operation in the confines of the 101<sup>st</sup> Precinct, using undercover detectives to purchase narcotics from known or suspected drug dealers and then arresting the sellers. The Tactical Plan lists Sgt. [REDACTED] Det. [REDACTED] Det. [REDACTED], Det. [REDACTED], Det. [REDACTED], Det. [REDACTED], PO [REDACTED] and an undercover detective with ID number [REDACTED] as participants in the operation (Board Review 05).

Around 9:20PM, the undercover detective was escorted by Ms. [REDACTED] to Ms. [REDACTED] and Mr. [REDACTED] home at [REDACTED] in Queens, after the detective, adopting the moniker “[REDACTED]”, requested crack cocaine. The detective purchased crack cocaine from Mr. [REDACTED] inside his living quarters in the basement, accessible from the entrance at the side of the house. After the sale, the detective left the house and radioed to the field team that there was a “positive buy” in the basement, describing the suspects as a “tall, male black” and a “female black”.

Sgt. [REDACTED] then moved to the side of the house, hoping to draw the suspects out so the team could conduct the arrests. Without identifying himself as an officer, he knocked on the door to the basement and asked for “[REDACTED]”. Mr. [REDACTED] who answered the door, told Sgt. [REDACTED] to leave, but the sergeant persisted. Mr. [REDACTED] then called 911, reporting that a suspicious person was trespassing on the grounds.

At least one patrol unit from the 101<sup>st</sup> Precinct responded to the call, consisting of PO Michael McCarthy and PO [REDACTED] When the uniformed officers arrived, Sgt. [REDACTED] and the other members of the field team explained to them that they were attempting to arrest two people for selling crack cocaine to an undercover detective. They asked the patrol officers to knock on the front door, and the officers obeyed.

Ms. [REDACTED] who had been told by Mr. [REDACTED] that a strange man refused to leave the grounds, answered the front door, and allowed the officers inside. Det. [REDACTED] Sgt. [REDACTED] and unidentified Queens Narcotics officers followed the uniformed officers inside.

The officers explained to Ms. [REDACTED] that they believed that a woman was inside the basement. They asked for permission to search the basement for the woman, and Ms. [REDACTED] allowed them to do so. Once inside, the officers, led by Sgt. [REDACTED] and Det. [REDACTED] searched the basement, stopping at a door to a utility room that was locked. Angered when Ms. [REDACTED]

said that she did not have the key, Det. [REDACTED] told her, “I could destroy this whole house” (**Allegation A**).

Ms. [REDACTED] and Det. [REDACTED] began an argument over the locked door, and in response, Det. [REDACTED] grabbed Ms. [REDACTED] by both arms and slammed her against a wall next to the door (**Allegation B**). Angered, Ms. [REDACTED] asked Det. [REDACTED] for his name and his shield number, but Det. [REDACTED] ignored the request (**Allegation C**).

Det. [REDACTED] went inside Mr. [REDACTED] room and found Ms. [REDACTED] hiding behind the door. Det. [REDACTED] told Ms. [REDACTED] to “Get the fuck up” (**Allegation D**). Det. [REDACTED] then arrested Ms. [REDACTED] with Sgt. [REDACTED] supervising.

Det. [REDACTED] escorted Ms. [REDACTED] to the prisoner van, where Mr. [REDACTED] sat in handcuffs, having been apprehended by PO [REDACTED]. The Queens Narcotics officers then left for the 101<sup>st</sup> Precinct stationhouse.

Shortly after the field team arrived at the stationhouse, Ms. [REDACTED] arrived as well, complaining about the incident that had occurred at her home. Ms. [REDACTED] found Det. [REDACTED] in the Arrest Processing Unit, and asked him again for his name and shield number. Det. [REDACTED] refused initially, but when she insisted, he thrust his shield in her face and said “Here!” but Ms. [REDACTED] could not properly make out the information (**subsumed within Allegation C**). After speaking with the Community Affairs Officer, Ms. [REDACTED] left the stationhouse.

Mr. [REDACTED] and Ms. [REDACTED] were both charged with Criminal Sale of a Controlled Substance in the third degree (Board Review 06 and Board Review 07). They were both incarcerated at Rikers Island for the offense. Mr. [REDACTED] has since been released, but Ms. [REDACTED] remains incarcerated for this offense.

### **Mediation, Civil and Criminal Histories**

This complaint is ineligible for mediation due to two arrests without DATs issued. Ms. [REDACTED] has never been arrested. Both Mr. [REDACTED] and Ms. [REDACTED] have been arrested several times previously, and Mr. [REDACTED] has a substantial criminal history (Board Review 08). Mr. [REDACTED] has been arrested and incarcerated twice since this incident, but has been released on bail both times.

### **Civilian and Officer CCRB Histories**

This is the first CCRB by Ms. [REDACTED] Mr. [REDACTED] and Ms. [REDACTED]

Det. [REDACTED] has been a member of the service for nine years, and there are no substantiated allegations made against him. There is also no overall pattern in his CCRB history consistent with the allegations made in this case.

## Findings and Recommendations

### Allegations not pleaded

- Abuse of Authority – Premises entered and/or searched

Ms. [REDACTED] had indicated that she permitted the officers to enter and later search part of the house. As Ms. [REDACTED] consented to these actions, a premises entered/searched allegation is not pleaded.

### Allegation A – Abuse of Authority: Det. [REDACTED] threatened to damage [REDACTED] property.

In her in-person statement, Ms. [REDACTED] alleged that when she told Det. [REDACTED] that she did not have the key to unlock the door to the utility room in the basement, Det. [REDACTED] said, “I could destroy this whole house” (Board Review 02). In her phone statement, she alleged that when Det. [REDACTED] told her that Mr. [REDACTED] would be arrested for selling drugs, Ms. [REDACTED] told him he was lying and asked to see the drugs that Mr. [REDACTED] supposedly sold Det. [REDACTED]. In response, Det. [REDACTED] said, “I could destroy all these rooms” (Board Review 01).

Neither Mr. [REDACTED] nor Ms. [REDACTED] was present when Det. [REDACTED] made this alleged remark, and there are no other civilian witnesses to this allegation. Both Det. [REDACTED] and Sgt. [REDACTED] the only officers interviewed who were inside the basement, denied that Det. [REDACTED] made either remark or any threat to damage property.

Absent any additional testimony, the investigation could not determine whether Det. [REDACTED] threatened to damage Ms. [REDACTED] property. Therefore, it is recommended that **Allegation A** be closed as **Unsubstantiated**.

### Allegation B – Force: Det. [REDACTED] pushed [REDACTED] against a wall.

In her in-person statement, Ms. [REDACTED] alleged that after Det. [REDACTED] said, “I could destroy this whole house,” she asked if he was the same man outside the house who had been calling for “Chris”. Det. [REDACTED] replied that he was, and Ms. [REDACTED] told him to get out, explaining that had she known he was the same man, she would never have let him inside the house.

In response, Det. [REDACTED] grabbed both of her arms and slammed her against a wall next to the door of the utility room. Ms. [REDACTED] hit her right elbow and lower right back, which aggravated wounds she had from a recent surgery (Board Review 02)

Neither Mr. [REDACTED] nor Ms. [REDACTED] saw this alleged push. Mr. [REDACTED] had already been apprehended and held outside the prisoner van by the time Ms. [REDACTED] Det. [REDACTED] and the other officers entered the basement (Board Review 03). Ms. [REDACTED] was still inside Mr. [REDACTED] bedroom at the time of the push (Board Review 04).

Both Det. [REDACTED] and Sgt. [REDACTED] categorically denied that Det. [REDACTED] pushed Ms. [REDACTED] against a wall. Det. [REDACTED] stated that when Ms. [REDACTED] retrieved the keys to



open the door to the utility room, she turned to Det. [REDACTED] and accused him of having pushed her. Astonished, Det. [REDACTED] told her that he did not push her, and that he did not even touch her. Det. [REDACTED] denied having any physical contact, even incidental contact, with Ms. [REDACTED] at any point of the incident (Board Review 09).

Sgt. [REDACTED] also claimed that Ms. [REDACTED] allegation appeared to come out of the blue. Either before or after Ms. [REDACTED] unlocked a closet for the officers, she turned to Det. [REDACTED] and accused him of having “body slammed” her. Det. [REDACTED] denied it, but Ms. [REDACTED] kept repeating the allegation. Sgt. [REDACTED] also denied that Det. [REDACTED] had any physical contact with Ms. [REDACTED] during the incident (Board Review 10).

Ms. [REDACTED] went to her regular doctor for treatment a week after the incident, complaining that a narcotics policeman “shoved” her. Her medical records show that the visit was brief, and that Ms. [REDACTED] was given Ibuprofen, ice packs, and “reassurance” for her elbow pain. She was exhorted to follow up two weeks later, but she did not return. The medical records also show that Ms. [REDACTED] suffered from multiple chronic health problems, including spinal damage that result in longstanding leg pain.

Absent any additional testimony, the investigation was unable to conclude whether Det. [REDACTED] pushed Ms. [REDACTED] against a wall. The statements Ms. [REDACTED] provided her doctor are not strong enough corroboration for the allegation, as it is quite possible that the pain Ms. [REDACTED] complained of might have resulted from either her recent surgery or her various health issues. Therefore, it is recommended that **Allegation B** be closed as **Unsubstantiated**.

**Allegation C – Abuse of Authority: Det. [REDACTED] refused to provide his name and shield number to [REDACTED]**

It is undisputed that Ms. [REDACTED] requested Det. [REDACTED] name and shield number at least twice during the incident – once when they were inside her basement, and second when they were both in the 101<sup>st</sup> Precinct stationhouse.

Ms. [REDACTED] alleged that after Det. [REDACTED] pushed her against the wall, she asked him for his name and his shield number, which he did not provide. She later went to the stationhouse to find out Det. [REDACTED] name and shield number, asking him again after finding him. Det. [REDACTED] said, “Here!” and shoved his shield in her face, but Ms. [REDACTED] did not get a good look at it. She later retrieved his name and shield number from a property clerk, who wrote it down (Board Review 02).

Det. [REDACTED] stated that Ms. [REDACTED] first asked him for his name and shield number after she accused him of having pushed her, at which time he provided the information verbally. After the arrests had been made and when the field team retreated to the Arrest Processing Unit at the stationhouse, Ms. [REDACTED] found Det. [REDACTED] and asked for his information again. This time, he wrote down his name and his shield number as he said them to her (Board Review 09).

Sgt. [REDACTED] corroborated Det. [REDACTED] statement, and he was also in the Arrest Processing Unit when Ms. [REDACTED] spoke to Det. [REDACTED] in the stationhouse (Board Review 10). PO

██████ however, was also in the Arrest Processing Unit with the rest of the field and recalled seeing Ms. ██████ at the stationhouse, though he did not know why she had come. He did not recall her asking Det. ██████ or any other officer for their name or their shield number (Board Review 11).

Absent any additional testimony, the investigation could not determine whether Det. ██████ refused to provide his name or his shield number to Ms. ██████. Therefore, it is recommended that **Allegation C** be closed as **Unsubstantiated**.

**Allegation D – Discourtesy: Det. ██████ ██████ spoke rudely to ██████ ██████**

Ms. ██████ alleged that one of the two officers that apprehended her inside Mr. ██████ bedroom told her to “Get the fuck up” as she had been sitting on the bed. Ms. ██████ did not know the names of either of the officers who apprehended her (Board Review 04).

Det. ██████ and Sgt. ██████ both stated that Det. ██████ found Ms. ██████ crouching behind the door of one of the bedrooms and that Det. ██████ apprehended her alone. Both denied that Det. ██████ told her to “Get the fuck up”, or that he used any profanity against her (Board Review 09 and Board Review 10).

Absent any additional testimony, the investigation was unable to determine if Det. ██████ told Ms. ██████ to “Get the fuck up”. Therefore, it is recommended that **Allegation D** be closed as **Unsubstantiated**.

**Allegation E – Other Misconduct: PO Michael McCarthy failed to prepare a memo book entry as required.**

PO McCarthy had no entries in his memo book regarding this incident, though he recalled it in great detail (Board Review 12 and Board Review 13).

NYPD Patrol Guide Procedure 212-08 states that officers must record in their activity logs “information pertinent to an assignment or observed/suspected violation of the law, i.e. action taken [or] narrative disposition...” (Board Review 14).

Because PO McCarthy failed to comply with the above procedure, it is recommended that he be cited for **Other Misconduct**.

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Pod: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date